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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

24 IN RE MGM INTERNATIONAL RESORTS
25 DATA BREACH LITIGATION

26 This Document Relates To: All actions.

Case No.: 2:20-cv-00376-GMN

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

TANYA OWENS, et al.

Plaintiffs,

v.

MGM RESORTS INTERNATIONAL

Defendant.

Master File No. 2:23-cv-01480-GMN
(Consolidated for pretrial proceedings
with Case Nos. 2:23-cv-1481, 2:23-
cv1537, 2:23-cv-1549, 2:23-cv-1550,
2:23-cv1577, 2:23-cv-1698, 2:23- cv-
1719, 2:23-cv1777, 2:23-cv-1826, 2:23-
cv- 1981, 2:23-cv2042, 2:23-cv-2064,
2:24-cv-81, 2:24-cv-00995, 2:24-cv-
00999)

**JOINT MOTION TO APPROVE AMENDMENT TO SETTLEMENT AGREEMENT
AND TO MODIFY NOTICE PROGRAM AND MEMORANDUM OF LAW**

Plaintiffs¹ and Defendant respectfully request the Court enter an order approving an amendment to the Settlement Agreement and modifying the requirements for the Notice Program for this proposed class action Settlement.

1. The Amendment to Settlement Agreement, attached as ***Exhibit A***, does not require a modification to the schedule, and only proposes to update the Notice Program to clarify that only Tier 1, 2, and 3 Settlement Class members, for which physical addresses are known, will be sent a Postcard Notice, and to remove the requirement that Postcard Notices be sent to Settlement Class members not in Tiers 1, 2, or 3 for which Email Notices bounce back or are otherwise undeliverable.² Case No. 2:20-cv-00376-GMN, ECF No. 243-1, Agreement ¶ 107; ECF No. 244, Preliminary Approval Order, at 26-27.

2. Attached as ***Exhibit B*** is the Declaration of Cameron A. Azari, Esq. Re: Updated Notice Program (“Azari Decl.”), in which he opines for the Settlement Administrator that due

¹ All capitalized terms used herein shall have the same meanings as those defined in Section II of the Settlement Agreement. ECF No. 243-1.

² Tier 1 Settlement Class members are those members of the Settlement Class whose Social Security number or military identification number were included in MGM’s records. ECF No. 243-1, ¶ 84. Tier 2 Settlement Class members are those members of the Settlement Class whose passport number or driver’s license number were included in MGM’s records. ECF No. 243-1, ¶ 85. Tier 3 Settlement Class members are those members whose name, postal address, and date of birth were included in MGM’s records. ECF No. 243-1, ¶ 86.

1 process will still be afforded to the Settlement Class members with the modified Notice
2 Program.³

3 3. The remaining aspects of the Notice Program that have been implemented,
4 consisting of sending Email Notices to those Settlement Class members with known email
5 addresses, Postcard Notices to those Tier 1, 2, and 3 Settlement Class members for which
6 physical addresses are known, and Publication Notice to notify the remaining Settlement Class
7 members, will satisfy the requirements of providing the “best notice practicable” regarding the
8 Settlement. Fed. R. Civ. P. 23(c)(2)(B). The best notice practicable is that which “is reasonably
9 calculated, under all of the circumstances, to apprise interested parties of the pendency of the
10 action and afford them an opportunity to present their objections.” *Mullane v. Cent. Hanover*
11 *Bank & Tr. Co.*, 339 U.S. 306, 314 (1950). A robust Publication Notice plan was included from
12 the outset for the sole purpose of providing notice to Settlement Class members who may not
13 receive notice by email or postcard. It is widely accepted as a cost-effective and practicable way
14 to reach the Settlement Class.

15 4. After consulting with the Settlement Administrator and Defendant’s Counsel,
16 following the delivery of Class List, and the implementation of the Email Notice, Postcard
17 Notice, and Publication Notice elements of the Notice Program, it came to light that a fair
18

19
20 ³ Mr. Azari’s attached declaration details how Publication Notice will work via nationally
21 displayed Digital Notices on the *Google Display Network*, *Facebook*, *Instagram*, *Reddit*, and
22 *X(Twitter)*, following which Digital Notices are also targeted (remarketed) to people who click
23 on the Digital Notice. Ex. B at ¶¶ 15-27. The Settlement Administrator anticipates that these
24 efforts will generate approximately 320 million targeted impressions, and when the Settlement
25 Class members click on the Digital Notices, they will be linked to the Settlement Website to
26 obtain detailed Settlement information, including the opt-out and objection rights and
27 procedures and Claim process. *Id.* at ¶ 25. To supplement the Digital Notice efforts, and
28 facilitate locating the Settlement Website, sponsored search listings have been acquired on the
three most highly-visited internet search engines: *Google*, *Yahoo!*, and *Bing*. *Id.* at ¶ 27. All
sponsored search listings will link directly to the Settlement Website. *Id.* Finally, to build
additional reach and extend exposures, a party-neutral Informational Release (in both English
and Spanish) was issued nationwide over PR Newswire to approximately 13,000 general media
(print and broadcast) outlets. *Id.* at ¶ 28.

1 amount of additional Postcard Notices would be required to be sent. Azari Decl. ¶ 3. Given the
2 size of the Settlement Class, incurring the additional and substantial expense to print and send
3 additional Postcard Notices would be counterproductive and result in significant diminishing
4 returns for those participating Settlement Class Members who file Valid Claims. It would
5 unnecessarily decrease the Net Settlement Fund by millions of dollars. Therefore, the Parties
6 agreed to amend the Notice Program in the Settlement Agreement, and request the Court's
7 approval to modify the Notice Program. Importantly, doing so will not impact any of the current
8 deadlines leading up to the Final Approval Hearing, the date of which will remain the same.

9 5. Ninth Circuit precedent is clear that “the Due Process Clause does not require
10 actual, individual notice in all cases.” *Briseno v. ConAgra Foods, Inc.*, 844 F.3d 1121, 1129
11 (9th Cir. 2017). “Courts have routinely held that notice by publication in a periodical, on a
12 website, or even at an appropriate physical location is sufficient to satisfy due process.” *Id.* See
13 also *In re Lithium Ion Batteries Antitrust Litig.*, 853 Fed. Appx. 56, 59 (9th Cir. 2021) (“Notice
14 here was not inadequate merely because every class member was not directly mailed or because
15 counsel did not obtain more unnamed class member emails. See FRCP 23(c)(2) advisory
16 committee's notes. IPPs appropriately focused on the means most likely to notify class
17 members, including through traditional and technological means and publication.”); *Jabbari v.*
18 *Farmer*, 813 Fed. Appx. 259, 261 (9th Cir. 2020) (“Here, the Notice Plan included
19 advertisements to the general public, messages to millions of current and former customers,
20 messages to potential class members identified by an independent consultant, and social media
21 campaigns. No notice plan is perfect, but perfection is not required.”). As noted above, direct
22 notice has been afforded via Email Notice to a substantial portion of the Settlement Class.

23 6. Based on the foregoing, the Parties respectfully request entry of an order that
24 approves the modification of the Notice Program. A proposed order is attached as ***Exhibit C***.

25 Dated: April 1, 2025.

Respectfully submitted,

/s/ J. Gerard Stranch IV

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